

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Paul Jones,

Plaintiff

v.

State of Nevada,

Defendant

Case No. 2:20-cv-01064-JAD-EJY

**Order Dismissing
and Closing Case**

On June 15, 2020, plaintiff Paul Jones submitted an application to proceed *in forma pauperis* and a motion for appointment of counsel.¹ On June 18, 2020, this Court ordered him to file a complaint and either pay the \$400 filing fee or file a complete *in forma pauperis* application by August 17, 2020.² That deadline expired without a complaint, a new application, or payment of the filing fee.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action

¹ ECF No. 1, 1-1

² ECF No. 3.

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious
2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
4 availability of less drastic alternatives.⁵

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the
6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
9 ordered by the court or prosecuting an action.⁶ A court’s warning to a party that its failure to
10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of
11 alternatives” requirement,⁷ and that warning was given here.⁸ The fourth factor—the public
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
13 favoring dismissal.

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21 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

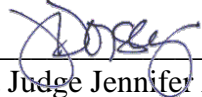
23 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁸ ECF No 3 at 3.

1 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
2 based on the plaintiff's failure to file a complaint and an application to proceed *in forma*
3 *pauperis* or pay the filing fee as ordered. The Clerk of Court is directed to **ENTER**
4 **JUDGMENT** accordingly and **CLOSE THIS CASE**. **No other documents may be filed in**
5 **this now-closed case**. If Paul Jones wishes to pursue his claims, he must file a complaint in a
6 new case, and he must either pay the \$400 filing fee or file a complete *in forma pauperis*
7 application in that new case.

8 Dated: August 25, 2020

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10 U.S. District Judge Jennifer A. Dorsey
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